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M & A Dkt: 30436.11US06/SBA/TYL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Peter S. Linsley, Jeffrey A. Ledbetter, Nitin K. Damle and William Bragg
Serial No. : 09/666,267 Examiner: P. Gambel
Filed : September 21, 2000 Group Art Unit: 1644
For : LIGAND FOR CD28 RECEPTOR ON B CELLS AND METHODS

TECH. CENTER 1600/2900

FEB 14 2002

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35 N. Arroyo Pkwy., Suite 60
Pasadena, California 91103
January 22, 2002

Honorable Assistant Commissioner of Patents
Washington, D.C. 20231

SIR:

COMMUNICATION IN RESPONSE
TO THE NOVEMBER 20, 2001 OFFICE ACTION
AND PETITION FOR ONE MONTH EXTENSION OF TIME

This Communication is being submitted in response to the Office Action dated November 20, 2001 (the "Office Action") issued by the U.S. Patent and Trademark Office in connection with the above-identified application. A response to the Office Action was due December 20, 2001. Applicants hereby request a one (1) month extension under 37 CFR §1.136(a). The fee for this extension is \$110.00 for a large entity, as required by 37 CFR §1.17(a). A response is now due on January 20, 2002. However, since January 20, 2002 falls on a Sunday and Monday, January 21, 2002 is a Federal Holiday, the response is now due on the following business day, i.e., Tuesday, January 22, 2002. Accordingly, this response is being timely filed.

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RESTRICTION REQUIREMENT

In the Office Action, the Office is requiring restriction under 35 U.S.C. §121 to one of the following inventions:

Group I: Claims 77-86 are drawn to a method of blocking or interfering with B7-mediated responses with B7-specific antibodies, classified in Class 323, subclass 130.1.

Group II: Claims 87-88 are drawn to methods of generating and identifying B7-specific antibodies, classified in Class 435, subclass 7.1.

ELECTION WITH TRAVERSAL

Applicants hereby elect the invention of Group II, with traverse, for prosecution at this time.

Applicants respectfully traverse the restriction requirement for the following reasons:

Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement. Under MPEP §803, the Examiner must examine the application on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden.

There is no burden to the Examiner to examine the claims of Groups I and II together

The methods of the claims of Groups I and II both involve anti-B7 monoclonal antibodies. Therefore, a search of the art with regard to the methods for Groups I and II would not place an undue burden on the Examiner because a search of prior art in regard to Group II will reveal whether any prior art exists as to the monoclonal antibodies in Group I and the use of such antibodies. Since there is no burden on the Examiner to examine groups I and II, the Examiner

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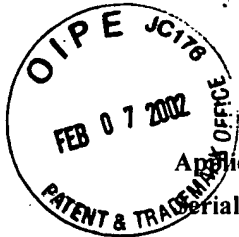
should examine the entire application on the merits in the subject application. Applicants look forward to a favorable action on the merits.

No fee, other than the time-extension fee, is deemed necessary in connection with the filing of this Amendment. If any fee is necessary, the Patent Office is authorized to charge any additional fee to Deposit Account No. 50-0306.

Respectfully submitted,



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CERTIFICATE UNDER 37 CFR 1.8

I hereby certify that this paper or fee is being deposited with the United States Postal as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on January 22, 2002.

By: 

Name: Tracy Trick

35 N. Arroyo Parkway, Suite 60
Pasadena, California 91103
January 22, 2002

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal sheet, in duplicate, containing Certificate under 37 CFR 1.8.
- ☒ Communication in Response to the November 20, 2001 Office Action and Petition for One Month Extension of Time
- ☒ A check in the amount of \$110.00 to cover the filing fee.
- ☒ Return postcard

Please charge any additional fees or credit overpayment to Deposit Account No. 50-0306. A duplicate of this sheet is enclosed.

MANDEL & ADRIANO

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By: 

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